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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.2299 OF 2002

PETITIONER Vikas Nannaware, aged about 22 years, S/o. Shri Narayan Rao Nannaware, Student, Diploma in Mechanical Engineering, Kirodimal Government Polytechnic, Raigarh, resident of Nayapara, Kirtinagar, Santoshi Chowk, Bilaspur (Chhattisgarh)

Versus

RESPONDENT

1. State of Chhattisgarh through the Secretary, Department of Technical Education, Government of Chhattisgarh, D.K.S. Building, Mantralaya, Raipur (Chhattisgarh)
2. Rajiv Gandhi Proudyogiki Vishvidyalaya, Bhopal through its Secretary, A/IV, Office Complex, Goutam Nagar, Bhopal (M.P.)
3. Kirodimal Govt. Polytechnic, Raigarh through its Principal, an autonomous Institution, Polytechnic College Building, Raigarh (Chhattisgarh)

Present: Mr. V.R. Twiari, learned counsel for the petitioner.
Mr. Vinay Harit, learned G.A., for the State of CG.
Mr. Rajiv Shrivastava, learned counsel for respondent No.2.

ORAL ORDER
(Passed on 27th February, 2006)

The petitioner was admitted in Mechanical Engineering Branch of Kirodimal Govt. Polytechnic College, Raigarh for the academic year 1994-95 in the month of June 1995, in Annual System. The petitioner cleared first year examination in second division in December, 1996. When the matter stood thus, in the year 1998, the Annual System was abolished and in place of it Multi Point Entry and Credit System (for

short ' the System) was introduced for examination and studies of Polytechnic courses. Consequently, the admission of the petitioner was merged in the System and the petitioner appeared in the first examination of the new System in November 1998, second examination in May-June 1999, third examination in February-March 2000, fourth examination in June-July 2000 and the fifth & final examination in December 2000. In the fourth examination conducted in June-July 2000, the petitioner had secured only 29 marks in At-502 'Theory of Machines and Design of Machine Elements' (for short 'TOMDOM') and consequently, he failed in that paper. When the matter stood thus, it was stated at the Bar, that in order to give an opportunity to the petitioner and similarly circumstanced other students to appear for the examination including in the paper 'TOMDOM', examinations were conducted in the year 2005 and the petitioner availing of that opportunity appeared and he secured only 21 marks in TOMDOM and consequently he was declared failed.

(2) In this writ petition, the petitioner has sought for a direction to Rajiv Gandhi Proudyogiki Vishwavidyalaya, Bhopal, the 2nd respondent herein, to issue marks card and certificate as having passed the Diploma In Mechanical Engineering. This relief is sought on the ground that the Principal of the 3rd respondent-College in which the petitioner had studied has issued Provisional Statement of Marks marked as Annexure-P/7 showing the petitioner as having passed in Diploma Course.

(3) The writ petition is opposed by the 2nd respondent by filing a detailed return. In the return, it is specifically stated by the 2nd respondent that the Principal of the 3rd respondent-College has had no authority to issue Provisional Statement of Marks showing the petitioner passed granting grace marks. The facts stated in the return or stated before the

Court at the time of hearing are not seriously disputed. It is trite that the Principal of the 3rd respondent College has had absolutely no legal authority to grant grace marks. The subject of awarding grace marks is governed by the regulating framed by the University. Only the University authorities are empowered to grant grace marks. Simply, because, the Principal of the college acted illegally and granted grace marks and declared the petitioner as having passed, that fact itself would not create any vested right in the petitioner to seek mandamus to the 2nd respondent to declare him as having passed in Diploma in Mechanical Engineering Examination inconformity with the Provisional Statement of Marks issued by the Principal. No ground is made out to grant the relief sought by the petitioner. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice